



The Law Offices of Kent Harrison Robbins, P.A.

September 12, 2019

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Re: NAS Babies Requesting Assistance  
Request for Documents in MDL 2804

Dear Plaintiffs' Liaison Counsel:

We are the law firms<sup>1</sup> representing NAS babies in the MDL, including class actions and individual cases. See attached list of NAS baby cases we have filed.

This letter follows up on my July 28, 2019 email to you on the same topic, Judge Polster's attached July 26, 2019 Order [Rec Doc. 2030] ordered that "all counsel of record for the NAS Baby Cases are entitled to review all formal discovery requests and responses, all existing discovery, and any documents that have been placed under seal....The PEC shall undertake to provide this access to NAS Baby counsel as soon as possible." And my July 10, 2019 letter to Plaintiffs' Liaison Counsel requesting all discovery including

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<sup>1</sup> The law firms are working in a consortium known as the Opioid Justice Team ("OJT") to share work product and all members to this consortium have executed the Court required protective order and the PEC required participation agreement.

*inter alia* deposition notices, requests for production and responses, and interrogatories and responses.

Forty-seven (47) days have lapsed since Judge Polster's Order and we still have not received:

1. Any formal 30(b)(6) deposition notices;
2. Any formal requests for production and responses;
3. Any formal interrogatories and responses; and
4. Any identification of the particular exhibits produced at depositions.

Our team has diligently worked with PEC counsel to receive all the ordered documents which were to be produced in tranches. Over the past 40 days, Mr. Kevin Thompson, with a team of attorneys, reviewed millions of documents and Relativity data and have been unable to locate the formal discovery Judge Polster ordered to be produced.

Declarations have been made by the PEC and Plaintiffs' Liaison Counsel that the NAS Babies' interests are being protected, but we have not received any of the discovery requests and responses, and the 30(b)(6) notices addressing the NAS Baby issues.

We are unable to determine what discovery concerning the NAS Babies has been requested. As counsel for the NAS Babies we must know what has been requested and what has been provided in response. From our own research, we have identified many documents not produced that are critical to NAS Babies, such as rats and rabbit studies related to teratogenic effects in utero.

The lack of this critical discovery involving the NAS Babies prejudices our preparation of the Amended Class Action Complaints for the NAS Babies to meet the Court's September 16, 2019 deadline as well as prejudices our efforts in preparing a scheduling order with the Defendants and prejudices our preparation of our Motions for Class Certification in compliance with the attached non-document order.

Please produce the requested documents by close of business today, September 12, 2019 (Eastern Standard Time) and, if you cannot produce those documents by that time, please call me by close of business today, September 12, 2019 at (305) 532-0500 to meet and confer.

We reserve all of our rights.

Sincerely,

*Kent Harrison Robbins*

Kent Harrison Robbins  
Secretary for the Opioid Justice Team

Enclosures

cc: Joseph F. Rice, PEC Co-Lead by email to: [jrice@motleyrice.com](mailto:jrice@motleyrice.com)  
Special Master Francis E. McGovern, II by email to [McGovern@law.duke.edu](mailto:McGovern@law.duke.edu)  
Special Master David R. Cohen, by email to [david@specialmaster.law](mailto:david@specialmaster.law)

Defendants' Liaison Counsel:

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Client Name	Case Type	Suit filed date	Individual Docket #	State
Rees, Derric and Ceonda	Class Action	2/28/18	1:18-op-45252-DAP	Illinois
Wood, Rachel	Class Action	3/3/18	1:18-op-45264-DAP	Missouri
Salmons, Walter and Virginia	Class Action	3/2/18	1:18-op-45268-DAP	W. Virginia
Ambrosio, Melissa	Class Action	3/16/18	1:18-op-45375-DAP	California
Flanagan, Darren and Elena	Class Action	3/21/18	1:18-op-45405-DAP	Tennessee
Roxie Whitley, Chris and Diane Denson	Class Action	3/16/18	1:18-op-45598-DAP	Tennessee
Roach, Tyler	Class Action	2/26/18	1:18-op-45662-DAP	Louisiana
Hunt, Shannon	Class Action	5/10/18	1:18-op-45681-DAP	Maryland
Moore, Bobbi Lou	Class Action	8/15/18	1:18-op-46305-DAP	West Virginia
Doyle, Erin	Class Action	5/9/18	1:18-op-46327-DAP	Ohio
Hanlon, Amanda	Class Action	8/23/18	1:19-op-45052-DAP	New York
Puckett, Heather	Individual	6/20/19	1:19-op-45439-DAP	North Carolina
Artz, Jennifer	Class Action	6/17/19	1:19-op-45459-DAP	California
Gilson, Jamiee	Individual	6/14/19	1:19-op-45461-DAP	Alaska
Rodriguez, Jessica	Class Action	6/14/19	1:19-op-45463-DAP	Utah
Ellis, Esperenza	Class Action	6/14/19	1:19-op-45464-DAP	New Mexico
DeMaro, Samantha	Class Action	6/14/19	1:19-op-45465-DAP	Oklahoma
Cruz, Gloria	Class Action	6/14/19	1:19-op-45466-DAP	Massachusetts
Paul, Chloe	Class Action	6/14/19	1:19-op-45467-DAP	South Carolina
Lechuga, Niola	Class Action	6/14/19	1:19-op-45468-DAP	Oregon
Brumbarger, Brandi	Class Action	6/14/19	1:19-op-45469-DAP	Indiana
Means, Corey	Class Action	6/14/19	1:19-op-45470-DAP	Louisiana
Peterson, Sally	Class Action	6/14/19	1:19-op-45472-DAP	Arkansas
Hampel, Jessica	Class Action	6/14/19	1:19-op-45473-DAP	Alabama
Whittaker, Shelly	Class Action	6/14/19	1:19-op-45475-DAP	Colorado
Tuttle, Nicole	Class Action	6/15/19	1:19-op-45476-DAP	Delaware
Hamawi, Marijha; Meghan Lara	Class Action	6/15/19	1:19-op-45477-DAP	Kentucky
Gauthier, Krista; Angela Sawyers; Jessica Springborn	Class Action	6/15/19	1:19-op-45478-DAP	Michigan
Simonson, Alicia	Class Action	6/15/19	1:19-op-45479-DAP	North Dakota
Delancey, Christina	Class Action	6/15/19	1:19-op-45480-DAP	Nevada
Stewart, Wendy	Class Action	6/15/19	1:19-op-45481-DAP	Ohio
Shewmake, Shilo	Class Action	6/16/19	1:19-op-45482-DAP	Washington
Weatherwax, Quincy	Class Action	6/16/19	1:19-op-45483-DAP	Montana
Martinez, Jacquelynn	Class Action	6/16/19	1:19-op-45484-DAP	Virginia
Williams, Farrah	Class Action	6/16/19	1:19-op-45485-DAP	Tennessee
Warren, Desirae	Class Action	6/16/19	1:19-op-45486-DAP	Georgia
Carlson, Desiree	Class Action	6/16/19	1:19-op-45487-DAP	Pennsylvania
Flach, Brittany	Class Action	6/16/19	1:19-op-45488-DAP	New Jersey
Ivie, Billie	Class Action	6/16/19	1:19-op-45489-DAP	North Carolina
Cherry, Angela	Class Action	6/16/19	1:19-op-45490-DAP	Arizona
Ortiz, Maria	Class Action	6/17/19	1:19-op-45492-DAP	Wisconsin
Meinecke, Kjellsi	Class Action	6/17/19	1:19-op-45493-DAP	Minnesota
Brant, Shelby L.	Class Action	6/17/19	1:19-op-45494-DAP	Arizona
Alexander, Melba	Individual	6/17/19	1:19-op-45502-DAP	Mississippi
Berzinski, April	Individual	6/17/18	1:19-op-45503-DAP	Wisconsin
Johnson, Jamie	Individual	6/17/19	1:19-op-45504-DAP	Indiana
Hutchins, Kiana	Individual	6/18/19	1:19-op-45505-DAP	Indiana
Collier, Jessica	Individual	6/17/19	1:19-op-45506-DAP	Ohio
Muffley, Amanda	Individual	6/17/19	1:19-op-45507-DAP	Maryland

Client Name	Case Type	Suit filed date	Individual Docket #	State
Martin, Penny	Individual	6/17/19	1:19-op-45508-DAP	Indiana
Kirk, Krystle	Individual	6/17/19	1:19-op-45509-DAP	North Carolina
Martin, Kimberly	Individual	6/18/19	1:19-op-45510-DAP	Florida
Dixon, Deborah	Individual	6/18/19	1:19-op-45511-DAP	South Carolina
Gauthier, Mechelle	Individual	6/18/19	1:19-op-45514-DAP	Florida
Gibson, Amanda	Individual	6/18/19	1:19-op-45515-DAP	North Carolina
Goldman, Jenni	Individual	6/18/19	1:19-op-45516-DAP	Texas
Goss, Heather	Individual	6/18/19	1:19-op-45518-DAP	Colorado
Herring, Courtney	Individual	6/18/19	1:19-op-45519-DAP	South Carolina
Howell, Reannan	Individual	6/17/19	1:19-op-45520-DAP	Texas
Johnson, Aracya	Individual	6/18/19	1:19-op-45521-DAP	Alaska
Kommer, Elizabeth	Individual	6/18/19	1:19-op-45522-DAP	Indiana
Lively, Carol	Individual	6/18/19	1:19-op-45523-DAP	Georgia
Lyle, Alyssa	Individual	6/18/19	1:19-op-45524-DAP	Georgia
Massey, Melanie	Individual	6/18/19	1:19-op-45525-DAP	North Carolina
McAnany, Samantha	Individual	6/18/19	1:19-op-45526-DAP	Texas
Shockley, Kayla	Individual	6/18/19	1:19-op-45527-DAP	Texas
Taylor, Jessica	Individual	6/18/19	1:19-op-45528-DAP	Texas
Taylor, Lori	Individual	6/18/19	1:19-op-45529-DAP	Texas
Tindall, Nichole	Individual	6/18/19	1:19-op-45530-DAP	Florida
Atkinson, Sandra	Individual	6/20/19	1:19-op-45531-DAP	Florida
Goforth, Rebecca	Individual	6/20/19	1:19-op-45532-DAP	Colorado
Chancey, Musette	Individual	6/20/19	1:19-op-45533-DAP	Minnesota
Patterson, Gena	Individual	6/20/19	1:19-op-45534-DAP	Texas
Perkins, Jessica	Individual	6/20/19	1:19-op-45535-DAP	Florida
Shepard, Amy	Individual	6/20/19	1:19-op-45536-DAP	Kentucky
Taylor Brooke Underwood	Individual	6/20/19	1:19-op-45537-DAP	Tennessee
Richardson, Waikisha	Individual	6/20/19	1:19-op-45538-DAP	North Carolina
VonCannon, Caroline	Individual	6/20/19	1:19-op-45540-DAP	North Carolina
Whittington, Kaegan	Individual	6/20/19	1:19-op-45541-DAP	Mississippi
Thomas, Jennifer	Individual	6/20/19	1:19-op-45542-DAP	Florida
Wright, Naomi	Individual	6/20/19	1:19-op-45543-DAP	Illinois
Scully, Jenny	Individual	6/20/19	1:19-op-45544-DAP	New York
Watson, Paula	Individual	6/20/19	1:19-op-45545-DAP	Florida

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION	)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION	)	
	)	JUDGE POLSTER
THIS DOCUMENT RELATES TO:	)	
“Track One Cases”	)	
	)	ORDER REGARDING
	)	NAS BABY MOTIONS
	)	

Currently pending before the Court are three motions filed by counsel representing various plaintiffs in the “NAS Baby” cases. The motion and related documents filed at **docket no. 1950** seek appointment of attorney Scott Bickford as “NAS Baby Liaison Counsel.” The motion filed at **docket no. 1998** seeks appointment of a different attorney, Marc Dann, as “NAS Baby Liaison Counsel” and two other attorneys as “NAS Baby Lead Counsel.” And the motion and related documents filed at **docket no. 1943** ask the Court to set a case management conference to address the NAS Baby cases. In all of these motions, counsel state they have not received sufficient discovery, and/or will not have sufficient time to review existing discovery, before their upcoming deadline for filing a motion for class certification.

Except as follows, the Court **DENIES** all of these motions. The Court will meet with no more than four attorneys representing the NAS Baby cases at 9:30 a.m. on August 7, 2019, to discuss discovery-related issues. All counsel who represent NAS Babies will choose which four attorneys will attend; absent agreement, none will attend.

The Court also makes clear that all counsel of record for the NAS Baby cases are entitled to review all formal discovery requests and responses, all existing discovery, and any documents that have been placed under seal, once counsel has signed any required protective orders and discovery sharing agreements. The PEC shall undertake to provide this access to NAS Baby counsel as soon as possible.

Finally, in light of NAS Baby counsel's suggestions that they need more time for discovery, and the timing of the upcoming Track One trial, the Court directs counsel for the NAS Baby cases and counsel for defendants to meet and confer and propose joint modifications to the briefing schedule for class certification.

**IT IS SO ORDERED.**

*/s/ Dan Aaron Polster*

**DAN AARON POLSTER  
UNITED STATES DISTRICT JUDGE**

**Dated:** July 26, 2019

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## Activity in Case 1:17-md-02804-DAP In Re: National Prescription Opiate Litigation Order

ohndecf@ohnd.uscourts.gov  
To OHNDdb\_CleECF@ohnd.uscourts.gov

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[U.S. District Court](#)

Northern District of Ohio

### Notice of Electronic Filing

The following transaction was entered on 8/22/2019 at 8:43 AM EDT and filed on 8/22/2019

Case Name:

In Re: National Prescription Opiate Litigation

Case Number:

[1:17-md-02804-DAP](#)

Filer:

Document Number: No document attached

Docket Text:

**Order [non-document] - The Court construes NAS Baby Plaintiffs' Status Report, Doc #: [2489], as (1) a motion asking the Court for an extension of time to September 16, 2019 to move for leave to file amended complaints in the 4 cases subject to Doc #: [1829], and (2) a motion giving NAS Baby Plaintiffs time until September 23, 2019 to confer with Defendants and propose an agreed scheduling order that will permit the Court to hold a class certification hearing by the end of the year. The Court grants NAS Baby Plaintiffs an extension of time to September 16, 2019 to file a motion for leave to file amended complaints. The Court directs Defendants and NAS Baby Plaintiffs to confer and file an agreed scheduling order, no later than 12:00 noon on Monday, September 23, 2019, that will permit the Court to review a fully briefed class certification motion by the end of this year. Judge Dan Aaron Polster on 8/22/19. (P,R)**

1:17-md-02804-DAP Notice has been electronically mailed to:



3:21 PM  
8/22/2019